

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SUSANNE H. LINN and MELISSA KNESZ,

Plaintiff,

v.

NORTHAMPTON COUNTY, *et al.*,

Defendants.

Civil Action No. 02 CV 4417

Judge Anita Brody

**DEFENDANT AFSCME'S MOTION TO DISMISS**

AND NOW, pursuant to Federal Rule of Civil Procedure ("Rule") 12(b), Defendant AFSCME Local 2549, ("AFSCME" or "Union"), by and through its attorneys, Willig, Williams & Davidson, hereby moves this Court for an order dismissing Count VI of the Complaint in this action, averring as follows:

1. Plaintiffs commenced this action by filing a Complaint on or about July 2, 2002.

2. On or about August 1, 2002, Plaintiffs mailed a copy of the Complaint to Defendant AFSCME, and requested that the Union waive service of summons. Thereafter, undersigned counsel waived service of summons on AFSCME's behalf, and agreed to respond to the Complaint on or before September 30, 2002.

3. For the reasons set forth in the accompanying memorandum of law, incorporated herein by reference, Count VI of the Complaint must be dismissed pursuant to Rule 12(b)(6) for failure to state a claim against Defendant AFSCME for which relief can be granted.

WHEREFORE, Defendant AFSCME respectfully requests that the Court dismiss Count VI of the Complaint in this matter with prejudice.

Respectfully submitted,

**WILLIG, WILLIAMS & DAVIDSON**

By: \_\_\_\_\_  
AMY L. ROSENBERGER, ESQUIRE  
Pa. Attorney I.D. No. 76257  
1845 Walnut Street, 24<sup>th</sup> Floor  
Philadelphia, PA 19103  
(215) 656-3600

Counsel for Defendant AFSCME

Dated: September 30, 2002

**CERTIFICATE OF SERVICE**

I, AMY L. ROSENBERGER, ESQUIRE, hereby certify that I have this day caused a true and correct copy of the foregoing Defendant AFSCME's Motion to Dismiss to be served by first class mail, postage prepaid, upon the following:

Anne P. Felker, Esquire  
539 Center Street  
P.O. Box 190  
Bethlehem, PA 18016-0190  
(610) 861-7737

Jordan Yeager, Esquire  
Boockvar & Yeager  
714 Main Street  
Bethlehem, PA 18017  
(610) 861-4662  
*Counsel for Plaintiffs*

David J. MacMain, Esquire  
L. Kristen Blanchard, Esquire  
Montgomery, McCracken, Walker  
& Rhoads, LLP  
123 South Broad Street  
Philadelphia, PA 19109  
*Counsel for Defendants Northampton County  
and Todd Buskirk*

---

AMY L. ROSENBERGER, ESQUIRE

Dated: September 30, 2002